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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,441	11/19/2003	J. Donald Hill	018880.0147	3943

24735 7590 04/18/2007
BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

EXAMINER

KOTINI, PAVITRA

ART UNIT	PAPER NUMBER
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3731

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/18/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/18/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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ED

Office Action Summary	Application No.	Applicant(s)	
	10/715,441	HILL ET AL.	
	Examiner	Art Unit	
	Pavitra Kotini	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-22, 34, 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Amendment received on 1/25/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13-19, 21, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Carson et al. (US 2005/0192604).

Regarding **claim 13**, Carson discloses positioning a first saddle (14, fig. 3B) of a first coupler (298, fig. 21C) within a first conduit (target vessel); positioning a second saddle (A, fig. 21C) of a second coupler (296, fig. 21C) within a second conduit (blood source); clamping said first conduit (42, fig. 3B) to said first saddle of said first coupler; and connecting said first coupler (298, fig. 21C) and said second coupler (296, fig. 21C).

Claims 14 and 15, Carson discloses the step of making an incision in said conduit and positioning said saddle of said coupler within said conduit (para. 0070; I, fig. 5A).

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carson in view of Gifford (US 20020151914).

Carson discloses the invention substantially as claimed above, except for changing the temperature of the tissue clamp. However, Gifford teaches the step of heating an anastomosis device to a transition temperature, such that the device is secure within the conduit (last sentence of para. 0216). This process has the apparent advantage of preventing fluids leaking from the artificial opening under normal physiological conditions. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the coupler disclosed by Carson to secure it to the vessel by the process taught by Gifford.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carson in view of Berreklouw (WO 00/24339).

Carson discloses the invention substantially as claimed above, except for a pair of legs formed in the tissue clamp. However, Berreklouw teaches a pair of legs (11, 111 fig. 4, 5) that could be incorporated on the tissue clamp for further securing of the coupler to the vessel wall (col.16, lines 30-36). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the coupler disclosed by Carson to include legs as taught by Berreklouw for the sake of enhancing the fitting of the coupler to the vessel wall.

Regarding **claim 21**, Carson discloses engaging a first mating surface (see attached appendix, F, fig. 21C) of said first coupler (298, fig. 21C) and a second mating surface (E, fig. 21C) of said second coupler (296, fig. 21C).

Regarding **claim 22**, Carson discloses a coupler apparatus that illustrates a first coupler and a second coupler connected together without the couplers being positioned

within vessels (fig. 21c). Therefore, this figure illustrates that the couplers can be assembled together prior to placement within the conduits.

Allowable Subject Matter

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 35 is allowed.

Response to Arguments

Applicant's arguments, filed on 1/25/07, with respect to the rejection(s) of claim(s) 13-22 and 35 under 103a have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Carson et al. (US-2005/0192604).

Only the reference of Carson et al. (US-2005/0192604) is necessary because it is evident that Carson discloses a first conduit (a target vessel) and a second conduit (a blood source). See paragraph 0124, which clearly indicates that two separate and different conduits can be connected. Therefore, there was no need for the secondary reference of Akin et al. (2002/0161383).

Figure 21C of Carson clearly shows as claimed, a first coupler (298) and a second coupler (296) connected by central channel (294) to couple conduits (para. 0109).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pavitra Kotini whose telephone number is 571-272-0624. The examiner can normally be reached on M-F 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.Kotini
Au 3731


ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
